

>> “knew Tuney would be doing eBay/Pay-Pal buyer credit,” and further that she “knew Tuney would be using the credit for buying and selling on eBay and would be using Pay-Pal buyer credit.” Criminal charges were filed against Tuney and G.E. Money Bank re-opened their fraud claim, ultimately deciding in favor of Esterhay and refunding all payments made on that account.

## WHAT'S THE CHARGE?

The Supreme Court of Kentucky rendered a published decision in the case of Crouch v. Com., No. 2009-SC-000129-DG, June 17, 2010. In this case, an officer observed Crouch traveling approximately 90 mph in a 55 mph zone. Another officer stopped Crouch, got him out of his vehicle, and took him to the officer's cruiser. That officer asked for identification, but Crouch responded that he did not have any. The

officer then asked Crouch his name. He replied that he was John Kiger and gave the officer a Social Security number. A records check of the number provided indicated the number belonged to John Kiger. The officer then searched Crouch's vehicle and located a marijuana cigarette on the front passenger's seat.

The officer then took Crouch, who the officer had no reason to believe was not someone named John Kiger, to the local jail. When he and the officer entered the jail, a guard addressed Crouch as “Scott.” When the arresting officer said Crouch's name was “John,” the guard showed the arresting officer a personal information sheet that contained a picture of Crouch and listed a Social Security number different from that which Crouch had given the arresting officer. At some point, Crouch admitted that he used the name “John Kiger” as an alias. When the Social Security number on the personal information sheet was checked, the authorities discovered that Crouch's operator's license had been suspended.

A grand jury indicted Crouch for theft of identity, reckless driving, possession of marijuana and being a first-degree persistent felony offender. Crouch was convicted and sentenced to five years' imprisonment for theft of identity.

Crouch's argument to the Court was that he should have been prosecuted for the misdemeanor offense of giving a peace officer a false name instead of the felony offense of theft of identity. A relevant provision of KRS 514.160, the theft of identity statute under which Crouch was convicted, provides:

(1) A person is guilty of the theft of the identity of another when he or she knowingly possesses or uses any current or former identifying information of the other person or family member or ancestor of the other person, such as that person's or family member's or ancestor's name, address, telephone number, electronic mail address, Social Security number, driver's license number, birth date, personal identification number or code and any other information, which could be used to identify the person, including unique biometric data, with the intent to represent that he or she is the other person for the purpose of avoiding detection.

